

our troops have been subjected. There will be infinitely more of those examples, given the mission the President has proposed in Baghdad.

The father of the soldier told me: My son's first interpreter was a spy. Those are the kinds of precarious and dangerous circumstances under which our soldiers are facing extraordinary challenges. Now they are being requested to go door-to-door in Baghdad, as this soldier was doing in Baquba. His father said they were going door to door, clearing them out, only to find they were coming back in. That is the circumstance our troops will face in this very dangerous mission in Baghdad.

While we are on recess, all of this will be underway. Yet we have no plan to debate and to vote on our respective views and positions on this question.

This is not in keeping and consistent with the traditions and practices of the Senate. I have served in both the House of Representatives and the Senate for 29 years. I have witnessed and been part of debates that range from Lebanon to the Persian Gulf to Somalia to Bosnia to Panama. We were able to exercise our views, whether we were in the House of Representatives or in the Senate. I am deeply disappointed that we are at this juncture, that we are planning to adjourn for a previously scheduled recess without having established a record on behalf of the Senate for the people of this country. We are their voice. We reflect their will. We should have the opportunity to debate and to vote on the various questions.

The fact is, we have allowed the gears of this deliberative process to become jammed with the monkey wrenches of timidity and partisanship. I reject that because at a time in which the American people are deeply concerned about the direction of our mission in Iraq, the Senate is deadlocked and stalemated.

That is why I object to the motion to adjourn. I hope my colleagues will express their objections, likewise, irrespective of where Members stand on the question. I hope Members express disappointment and disapproval that we will recess without having taken a stand on this monumental issue.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

#### IRAQ DEBATE

Mr. REID. Mr. President, I will use leader time.

Mr. President, I have the deepest respect for the Senator from Maine. I care about her a lot. She is a good legislator and a very strong woman, strong person, someone who stands up for what she thinks is right. I admire her for that.

However, those are interesting comments that I have just heard from my

friend regarding an Iraq debate. While I respect the Senator from Maine and, as I have said I appreciate her sense of urgency, I say with all due respect, she is coming late to the party.

Last week, when Senators had the opportunity to hold an important debate about Iraq, she and others chose to prevent that debate. Some of them, including my friend from Maine, voted against their own resolution by not invoking cloture. While it is heartening to know that they would like to have an Iraq debate now, where were they last week? Where were they when the Senate was trying to send a message to President Bush to stop the escalation? Where were they when we were trying to send a message in standing up for our troops in Iraq? The answer: Obstructing. Playing politics.

Don't tell me about politics. They were putting the political needs of the White House ahead of our troops' need for a new direction in Iraq.

If not for the actions that took place last week, we could have been finished with this debate regarding the escalation in Iraq. We could have already sent a strong message to President Bush that he stands alone in supporting escalation. We could have joined the House in expressing our support for the troops and our opposition to the so-called surge. But because there was a political game being played with the war, the American people still do not know where their Senators stand on escalation.

I take it from comments I have heard—not only from the Senator from Maine but from others on the other side of the aisle—that a number of Members had a change of heart; that, in the future, I would hope, many of them will be joining us in an important Iraq debate.

Everyone within the sound of my voice should understand, we are in the Senate. Procedurally it is very difficult, many times, to get from here to there. I started as quickly as I could to process this matter. On Tuesday, I moved to rule XIV so we could have the House resolution before the Senate. I would hope we will have that opportunity soon.

This week, the House of Representatives is debating a bipartisan resolution on escalation. Last night, as I have indicated, I started the process—again, moving one step further to bringing the legislation closer to the floor of the Senate, a resolution saying we support our troops and we oppose the escalation.

When the Senate returns after the break, we will deal with the House resolution in some manner. The American people deserve, as I have said, to know where every Member of the Senate stands on the so-called surge. It is an important issue facing our country.

I repeat what I said about the Senator from Maine. I care about her a lot. But I really am somewhat lost in the logic of her debate.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### ISSUE OF FAIRNESS

Mr. MCCONNELL. Mr. President, using some of my leader time, let me respond briefly to my good friend, the majority leader.

The Senate Republicans are fully prepared to have a debate on the Iraq war. We were prepared to have a debate on the Iraq war last week. We anticipated it. The issue is whether the Senate will operate like the House. It will not.

In the House, they have one Iraq resolution. The minority gets no voice at all, up or down, on one proposal. As my good friend, the majority leader, and certainly the majority whip said repeatedly over the years, the Senate is not the House. Senate Republicans are anxious to have the Iraq debate. We are not trying to avoid it in any way, whatever. But there will be, at the very least, a proposal that a majority of Senate Republicans support in the queue to be considered so that we will have an alternative.

Now, the majority leader and I have had a number of discussions about this issue over the week. I am still hopeful we can work this out and have a process for going forward that is fair to Senate Republicans. However, I am very confident that Senate Republicans will insist on having at least one alternative favored by a majority of our Members. Again, I am not anticipating that we will end up in the same position we were last week. The majority leader and I are continuing to talk about it.

But fundamental fairness is essential on the most important issue confronting the country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have two votes scheduled at 10:30. We were supposed to have 15 minutes reserved for Senator LEAHY and myself, and I know Senator HAGEL is in the Senate and wants a little time.

With the majority leader in attendance, I wonder if we might adjust the timing so we can talk about these judges at least for a few minutes?

Mr. REID. I say to my friend, the question is an excellent question. We have, as the Senator knows, a funeral taking place today for Dr. Norwood. We changed the vote around from 11 o'clock until 10:30 today so a large contingent of Senators and House Members can attend the funeral. If we do not start the votes at 10:30, they will not be able to attend.

Mr. SPECTER. I accept that. May I use the last 4 minutes to speak?

I will yield to the Senator from Nebraska for a minute.

Mr. HAGEL. I appreciate that.

## EXECUTIVE SESSION

NORMAN RANDY SMITH TO BE  
UNITED STATES CIRCUIT JUDGE  
FOR THE NINTH CIRCUIT

MARCIA MORALES HOWARD TO BE  
UNITED STATES DISTRICT  
JUDGE FOR THE MIDDLE DIS-  
TRICT OF FLORIDA

The ACTING PRESIDENT pro tempore. The Senate will proceed to executive session to consider the following nominations en bloc.

The clerk will report.

The assistant legislative clerk read the nominations of Norman Randy Smith, of Idaho, to be United States Circuit Judge for the Ninth Circuit and Marcia Morales Howard, of Florida, to be United States District Judge for the Middle District of Florida.

Mr. LEAHY. Mr. President, today, we consider nominations for lifetime appointments to the Federal bench, including Judge Norman Randy Smith to the Court of Appeals for the Ninth Circuit. Judge Smith was nominated to a seat on the Ninth Circuit designated a judicial emergency by the Administrative Office of the Courts. Judge Smith's nomination easily could have been confirmed in the last Congress—and the emergency addressed many months ago—had the Bush administration chosen the common-sense approach it has now followed of nominating Judge Smith—who is from Idaho—to Idaho's seat on the Ninth Circuit.

Instead, the President picked a fight by insisting on nominating Judge Smith to a California seat on the Ninth Circuit. Judge Smith had been nominated to fill the seat last occupied by Judge Stephen Trott, an appointee from California who made a personal decision to move to Idaho. I know of no precedent for shifting a circuit seat based on a judge's personal decision to change his or her personal residence. That generated opposition from the California Senators and created an impasse. I supported the California Senators, as I had Senators Sarbanes and MIKULSKI in a similar circumstance when this President sought to fill a Maryland seat on the Fourth Circuit with someone from Virginia.

I have tried for some time to get the President to redesignate the Smith nomination and nominate him to fill the Idaho vacancy. At long last, the President has done the right thing. The White House finally changed course and the President nominated Judge Smith for the Idaho seat on the Ninth Circuit. I thank the President for finally doing the right thing.

With the cooperation of the Senators from California and the other Members of the Judiciary Committee, we were able to avoid having a hearing on Judge Smith's nomination in this Congress and to expedite his consideration, now that he has been designated for the Idaho vacancy. We were able to re-

port Judge Smith's nomination last Thursday. Today, at long last, Senator CRAIG and Senator CRAPO and the people of Idaho will have a judge on this important court from their home State.

We have worked hard since convening this Congress to make significant progress in our consideration of judicial nominations. At our first executive business meeting, the Judiciary Committee reported out five judicial nominations little more than 2 weeks after they were sent to us. Three of these were for vacancies determined by the Administrative Office of the U.S. Courts to be judicial emergencies. All five were among those returned to the President without Senate action at the end of last year when Republican Senators objected to proceeding with certain of the President's judicial nominees in September and December last year. All five were confirmed only 3 weeks after they were nominated.

Last week, we reported another five nominations, including the nominations we consider today. We reported nominees from the home States of Senator SPECTER and Senator GRASSLEY and I want to thank Senator CASEY and Senator BROWN for expediting their consideration of nominees from their home States and approving them so quickly after taking office. I have worked cooperatively with Members from both sides of the aisle on our Committee, and in the Senate, to consider quickly and report 10 judicial nominations so far this year, allowing us to fill vacancies and improve the administration of justice in our Nation's Federal courts.

With the five confirmations last week we have confirmed more of President Bush's nominations in the 18 months I have served as Judiciary Committee Chairman than in the more than two years when Senator HATCH chaired the Committee with a Republican Senate majority or during the entire last Congress with a Republican Senate majority.

With Judge Smith's confirmation today, we will have confirmed a nomination to one of the Nation's important circuit courts little more than a month after the Republicans agreed to resolution allowing the Senate to organize. That is more than the total of President Clinton's nominations to circuit court vacancies confirmed by the Republican-controlled Senate during the entire 1996 session. Today, with this one confirmation we will surpass the Republican total for an entire session of the Congress.

Last week, we also held the first judicial nominations hearing of the new Congress and considered three more nominees, two of whom are nominated to fill judicial emergency vacancies. We held that hearing on February 6. When a Republican chaired the Committee in 1999 and there was a Democratic President, the first hearing on a judicial nominee was not held until June 16. We could have postponed this

hearing because it was at the same time as the Senators briefing on the new National Intelligence Estimate about the deteriorating situation in Iraq. As I did after 9/11, and after the Senate buildings were shut down by the anthrax letters, I chose to go forward with the nominations hearing.

I know some on the other side of the aisle have tried to raise a scare since I, again, became Chairman of the Judiciary Committee. They rant as if the sky is falling and as if we would not proceed on any judicial nominations. On the contrary, we have proceeded promptly and efficiently.

I have long urged the President to fill vacancies with consensus nominees. After this week's confirmations, according to the Administrative Office of the U.S. Courts there will be 51 judicial vacancies, 24 of which have been deemed to be judicial emergencies. Of those 24 judicial emergency vacancies, the President has yet to send us nominees for 17 of them. That means two-thirds of the judicial emergency vacancies are without a nominee from the President.

We will continue moving forward efficiently as long as the President sends us qualified, consensus nominees.

## IRAQ

Mr. HAGEL. Mr. President, just a brief response to the distinguished majority leader about motives as to debate on Iraq.

I don't know a Senator who has been clearer or more concise on this administration's positions on Iraq than the senior Senator from Nebraska. To suggest that some on this side are impeding or trying to protect the Bush administration's policy on Iraq, specifically escalating our military involvement in Iraq, is a bit off the mark.

The fact is, the minority leader is very clear in his purpose. I have supported that. Minority rights are the essence, the foundation of this body. The minority should have an opportunity to present their resolution or resolutions. It should not be dictated to by the majority.

Make it very clear, those on this side who have pushed for this debate are very clear in our position. I doubt if there is anyone who has been clearer than this Senator.

I yield the floor.

Mr. SPECTER. Mr. President, there is only a minute left before 10:30, not enough time to discuss. I ask unanimous consent I be recognized at the conclusion of the third vote for 10 minutes.

Mr. LEAHY. I did not hear the request.

Mr. SPECTER. My request—we were supposed to speak, but the time has been consumed otherwise. With only less than a minute left until 10:30, I have asked for consent to speak for 10 minutes at the conclusion of the third vote.

Mr. LEAHY. At the conclusion of the third vote?

Mr. SPECTER. Let me amend that to ask for 10 minutes for the chairman of the Judiciary Committee.